

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

In re:

Vascular Access Centers, L.P.,

Debtor.

Involuntary Chapter 11

Case No. 19-17117 (AMC)

ORDER

AND NOW, this ____ day of ____, 2021, in consideration of Vascular Access Centers, LLC's and James F. McGuckin, M.D.'s Motion for the Court to Consider the Deposition of John E. Royer and Related Evidence on Remand from the District Court, and all papers in support thereof and in opposition thereto, it is hereby **ORDERED** that the Motion is **GRANTED** and the Court's February 7, 2020 Order appointing a trustee and accompanying Memorandum decision are **VACATED**.

J.

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

In re:

Vascular Access Centers, L.P.,

Debtor.

Involuntary Chapter 11

Case No. 19-17117 (AMC)

**VASCULAR ACCESS CENTERS, LLC’S AND JAMES F. MCGUCKIN, M.D.’S
MOTION FOR THE COURT TO CONSIDER THE DEPOSITION OF JOHN E. ROYER,
ESQUIRE AND RELATED EVIDENCE ON REMAND FROM THE DISTRICT COURT**

Vascular Access Centers, LLC (“VAC LLC”) and James F. McGuckin, M.D. (“Dr. McGuckin”), by their undersigned counsel, respectfully request that this Honorable Court vacate its February 7, 2020 Order appointing a trustee and accompanying Memorandum decision in light of recent Deposition Testimony of John E. Royer and Related Evidence that it was ordered to consider on remand from the District Court. As grounds for this Motion, VAC LLC and Dr. McGuckin aver as follows:

Introduction

1. New evidence refuting the conclusions underlying this Court’s February 7, 2020 Order appointing a trustee only recently came into existence, and upon taking account of such evidence, as under the District Court’s remand order, this Court should vacate its February 7, 2020 Order and accompanying Memorandum decision. While an appeal of this Court’s February 7 Order was pending, a deposition was taken in a related action (“Deposition,” encompassing both the transcript and its exhibits) that resulted in surprising, highly pertinent testimony. VAC LLC and Dr. McGuckin moved the District Court to supplement the appellate record, and the District Court, by its Amended Order and Memorandum of April 15, 2021 (filed

under seal and attached hereto as Exhibit “A”), remanded the appeal to this Court with a mandate for it to consider the Deposition. *See* Ex. A, District Court Memo. at 6 (“For the foregoing reasons, the Court denies Appellants’ Motion for Leave to Supplement the Record, dismisses the appeal, and remands the case to the Bankruptcy Court to reconsider its order appointing a trustee in light of the testimony of Mr. Royer.”)

[illegible]

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Factual Background

VAC and Gardner's Motion.

A series of 20 horizontal black bars of varying lengths, representing a redacted list or document. The bars are arranged in a single column, with some bars being longer than others, suggesting a list of items of different lengths. The bars are solid black and have no text or other markings on them.

¹ A demonstrative Exhibit, highlighting the relevant documentary evidence and juxtaposing same with testimony from the Royer deposition is attached as Exhibit “B.”

2

Bar Index	Approximate Length (%)
1	95
2	98
3	60
4	35
5	98
6	90
7	93
8	100
9	95
10	95
11	95
12	100
13	95
14	35
15	98
16	92
17	98
18	92
19	96
20	100
21	96
22	96
23	85

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WHEREFORE, upon reconsideration of the Court's February 7, 2020 Order in light of the Deposition, the Court should vacate that Order and the accompanying Memorandum decision.

Respectfully submitted,

BOCHETTO & LENTZ, P.C.

/s/ David P. Heim

By:

George Bochetto, Esquire
David P. Heim, Esquire

Attorneys for VAC LLC and Dr. McGuckin

Dated: May 1, 2021

CERTIFICATE OF SERVICE

I, David P. Heim, Esquire, hereby certify that the foregoing *Motion for the Court to Consider the Deposition of John E. Royer, Esquire and Related Evidence on Remand from the District Court* has been served on counsel of record in this matter by way of the Court's ECF system.

BOCHETTO & LENTZ, P.C.

Dated: May 1, 2021

By: /s/ David P. Heim, Esquire
David P. Heim, Esquire